

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

THE COOKIE FACTORY, LLC,  
  
Debtor.

Case No.: 24-11002-REL

Chapter 7

**STIPULATION LIFTING THE AUTOMATIC STAY**

This stipulation (the “Stipulation”) is made by and among: (i) The Cookie Factory, LLC, the above-captioned debtor (the “Debtor”), by and through its counsel; (ii) Marc S. Ehrlich, the appointed chapter 7 trustee (the “Trustee”); and (iii) Falcon Equipment Finance, a Division of Falcon National Bank, (“Falcon” and with the Debtor and Trustee, the “Parties”), by and through its counsel.

**WHEREAS**, on September 10, 2024 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Northern District of New York (the “Court”) [ECF No. 1];

**WHEREAS**, prior to the Petition Date, on September 7, 2022, Falcon and Cookie Factory entered into an Equipment Finance Agreement (the “Agreement”) for the purpose of financing Cookie Factory’s acquisition of certain Equipment (as defined in the Agreement) used in its bakery business;

**WHEREAS**, on October 13, 2023, Falcon commenced an action against the Debtor and its two principal guarantors, Christopher M. Alberino and Joseph A. Alberino, III, styled *Falcon Equipment Finance v. The Cookie Factory LLC* (Index No. 275158/2023), in the Supreme Court of the State of New York, County of Rensselaer (the “State Court Action”), alleging that, among

other things, the Debtor defaulted under the Agreement, which entitles Falcon to immediate repossession of the Equipment;

**WHEREAS**, the Debtor does not have an equity in the Equipment, and the Equipment is not necessary to an effective reorganization of the Debtor;

**NOW, THEREFORE**, the Parties hereby stipulate and agree as follows:

1. The foregoing recitals are incorporated herein by reference.
2. The automatic stay imposed by section 362(a) of the Bankruptcy Code in the Debtor's bankruptcy proceedings shall be lifted, pursuant to section 362(d)(2) of the Bankruptcy Code, solely to permit Falcon to repossess the Equipment from the Debtor under the supervision of the Trustee.
3. The Debtor shall make the Equipment available for repossession by Falcon at a mutually agreeable time and location for the Parties no later than fourteen (14) days after the entry of an order approving this Stipulation.
4. The Parties reserve all rights, claims and defenses, and nothing in this Stipulation shall be construed as a waiver of any such rights, claims, or defenses, in connection with the State Court Action.
5. This Stipulation may not be amended without the express written consent of all the Parties or an order of the Court.
6. This Stipulation may be signed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
7. The Court shall retain exclusive jurisdiction to enforce the terms of the Stipulation.

Dated: September 24, 2024

**GIBBONS P.C.**

/s/ 

Mark B. Conlan, Esq.  
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*Counsel to Falcon Equipment Finance,  
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Dated: September \_\_, 2024

/s/

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*Chapter 7 Trustee*

Dated: September 27, 2024

**DRIBUSCH LAW FIRM**

/s/ 

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*Counsel to the Debtor*

7. The Court shall retain exclusive jurisdiction to enforce the terms of the Stipulation.

Dated: September \_\_, 2024

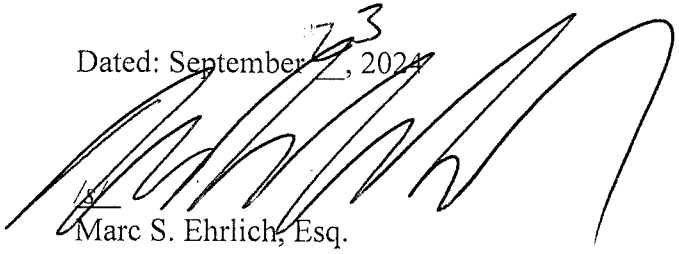
**GIBBONS P.C.**

/s/ \_\_\_\_\_

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*Counsel to Falcon Equipment Finance,  
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Dated: September \_\_, 2024

  
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*Chapter 7 Trustee*

Dated: September \_\_, 2024

**DRIBUSCH LAW FIRM**

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

THE COOKIE FACTORY, LLC,

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**ORDER APPROVING STIPULATION LIFTING THE AUTOMATIC STAY**

Upon the filing and reading of the *Stipulation Lifting the Automatic Stay* by and among:

(i) The Cookie Factory, LLC, the above-captioned debtor (the “Debtor”), by and through its counsel; (ii) Marc S. Ehrlich, the appointed chapter 7 trustee (the “Trustee”); and (iii) Falcon Equipment Finance, a Division of Falcon National Bank, (“Falcon” and with the Debtor and Trustee, the “Parties”), it is hereby:

**ORDERED**, that the Stipulation annexed hereto as **Exhibit A** and filed on the docket at number\_\_\_\_, be and hereby is in all respects approved.

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